



Alcoholic Beverage Control Summit

*Jointly presented by: Kentucky League of Cities,
Kentucky Association of Counties and
Kentucky Department of Alcoholic Beverage Control
August 21 – 22, 2013*





Local Administrator Responsibilities

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Department of Alcoholic Beverage Control



Local ABC Administrators

- No person shall be an ABC administrator or investigator who would be disqualified to serve as a member of the Board. An administrator or family cannot have any interest in a licensed premises.
- Each administrator shall take the Oath (Sect. 228 of the Constitution).
- Each administrator shall execute a bond with a good corporate surety in the sum of not less than \$1,000.
- An administrator shall immediately notify the Board in writing and send a copy of the bond.



Local ABC Administrators and the Application Process

- Applications for county and city licenses must first be approved by the local ABC administrator before applying for a state license. (KRS 243.370).
- If denied a local city license, an applicant can appeal the denial to the Board. (KRS 243.470).
- The local ABC administrator must sign the application before it is forwarded to the state.
- All applications should be reviewed for errors and incomplete answers. An application should be complete before it is forwarded to the state.



Regulatory License Fees

- In addition to licensing fees, a regulatory licensing fee may be levied by third (3rd) and fourth (4th) class cities and by counties containing them. (KRS 243.075).
- Regulatory licensee fees are restricted fund fees to be used for policing, regulatory, and administrative expenses related to alcoholic beverages sales.
- Although they are restricted funds, regulatory licensee fees can be allocated by cities in order to free up general funds.
- Regulatory licensing fees may be based on a percentage of the licensee's gross sales.



Other Local Regulation Topics

- A first (1st) through fourth (4th) class city or a county containing same may modify the hours of sale and permit Sunday sales.
- A city or county may require mandatory server training of licensee employees.
- A city or county may strictly regulate adult entertainment. New York State Liquor Authority v. Bellanca, 452 U.S. 714 (1981).
- Licensees have 30 days in which to appeal orders of the city ABC administrator to the Board. (KRS 242.200).
- A city cannot by ordinance limit the number of quota licenses allotted by the state. Whitehead v. Bravard, 719 S.W.2d 720 (Ky. 1986).



County and City ABC Administrators

- The county judge executive automatically becomes the ABC administrator for the county but may decline the position and appoint someone else. (KRS 241.110).
- Each first (1st) through fourth (4th) class wet city is required to have a city ABC administrator. A city may create the position by ordinance or assign duties to an existing officer. (KRS 241.170).
- County and city ABC administrators issue local licenses created by ordinance. They exercise the same authority with respect to county and city licenses that state administrators do with respect to state licenses. (KRS 241.140; KRS 241.190).



County and City ABC Licenses

- Counties and cities must create licenses by ordinance if they wish to collect licensing fees and regulate alcoholic beverage sales.
- If a county or city does not create local ABC licenses, the business only needs a state license.
- County license types and the maximum fees allowed are listed in KRS 243.060.
- City license types and the maximum fees allowed are listed in KRS 243.070.
- License fees are general fund fees.



Statutory Disqualifications from Holding a License

KRS 243.100(1) provides that a person is disqualified from holding a license if:

- Convicted of a felony during the past five (5) years.
- Convicted of a KRS Chapter 218A controlled substance crime within the past two (2) years.
- Convicted of an alcoholic beverage related misdemeanor within the past two (2) years.
- Under 21 years of age.
- Not a U.S. citizen or resident of the state.



Discretion to Deny Licenses

- KRS 243.450(2) provides ABC administrators with broad but not unlimited or arbitrary discretion to deny licenses to otherwise qualified applicants.
 - This broad discretion takes cognizance of a twilight zone within which the Administrator must determine if any particular license should be granted when substantial reasons exist why its issuance would not be in the public interest. Alcoholic Beverage Control Bd. v. Woosley, 367 S.W.2d 127, 128 (Ky. 1963).



Discretion to Deny Licenses

- An ABC administrator may deny a license for any reasonable cause which the administrator deems sufficient, including but not limited to:
 - (1) public sentiment in the area,
 - (2) the number of licensed outlets in the area,
 - (3) the potential for future growth,
 - (4) the type of area involved,
 - (5) the type of transportation available, and
 - (6) the financial potential of the area. (KRS 243.450(2)).
- Using this discretion, ABC administrators may restrict the location of licensed premises so that they are not too close to schools and so that licensed premises do not saturate an area.



License Denials and Appeals

- An administrator who denies an application must notify the applicant in writing and give reasons for the denial. (KRS 243.460(1)).
- The deadline for an applicant to request a hearing before the Board on a local administrator's denial of a license is thirty (30) days after the date on which the denial was mailed. (KRS 243.460(2)).
- Hearings before the Board are conducted in accordance with KRS Chapter 13B.
- If there is no appeal of a denial, an applicant may make a written request for a refund of the application fee.



State Regulation of Licensed Premises

- Licensees cannot sell alcohol to minors. (KRS 244.080(1)).
- The Department conducts Operation Zero Tolerance details to check premises for alcohol sales to minors. The compliance rate has increased from 68% in 1997 to 93% in 2012.
- The Department conducts “Cops in Shops” details to check for minors attempting to purchase alcohol.
- Minors cannot remain on premises where alcoholic beverages are consumed. This prohibits minors from being at a bar. Exceptions exist for restaurants, hotels, and other business types listed in KRS 244.085(6).



State Regulation of Licensed Premises

Licensees cannot:

- Sell alcohol to intoxicated persons, (KRS 244.080(2)),
- Permit gambling on licensed premises, (KRS 243.500(7)),
- Give away alcohol or sell it for less than cost, (KRS 244.050),
- Permit premises to become disorderly or loud, or permit crimes on the property, (KRS 244.120),
- Employ a person convicted of a felony or of two alcohol related misdemeanors within the past two (2) years. (KRS 244.090).
- Be open after hours or on a Sunday without a license permitting them to do so. (KRS 244.290, KRS 244.480).



State Regulation of Licensed Premises

- The Department initiates administrative penalty actions before the Board against licensees who violate the laws. The Department cites persons to the local District Court for criminal violations.
- If the Board determines that the violations occurred, it issues an appropriate penalty by Final Order.
- The Board's penalty options include fines, suspensions, and revocations.
- The Board's Final Orders are appealable to Franklin Circuit Court.



Local Regulation of Licensed Premises

- A city ABC administrator has the same authority with respect to city licenses that a state ABC administrator has with respect to state licenses. Therefore a city can issue fines, suspend, or revoke for violations by city licensees. (KRS 241.140; 241.190).
- Many local ordinances mirror statutory prohibitions so as to provide authority for local regulation of city licenses.
- Any order by a local ABC administrator penalizing a licensee can be appealed to the Board. (KRS 241.150; 241.200; 243.550).



Questions





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Senate Bill 13

How did SB 13 come to be?

What were the key goals and objectives of the Bill?

Goals & Objectives:

- Provide general clean up of Kentucky Alcoholic Beverage Control laws and regulations;
- Correct existing inconsistencies in statutes and regulations;
- Correct inconsistencies in licensing structure between Distilled Spirits and Malt Beverages;
- Streamline Kentucky's licensing system while preserving all requirements, privileges and prohibitions of all existing licensing types;
- Reduce and modernize the various licensing types and make it more comprehensible to the ABC customer;
- Simplify the licensing process and forms;



Senate Bill 13

Goals & Objectives Continued:

- The licensing scheme preserves quota licenses as well as the Department's internal review and respective administrator's approval processes. These items remain the same with no functional changes;
- Create uniform licensing fees and eliminate fees by city class;
- Correct existing enforcement issues;
- Address abuse of certain licensing types;
- Correct inconsistencies in the licensing of producers and improve regulatory oversight of all producers;
- Clarify terms and definitions;
- Demonstrate a collaborative and systematic approach to the revision of Kentucky's alcohol laws;
- Address public protection issues or needs; and
- Continue to preserve the three-tier system.



Senate Bill 13

What is Local Government's Authority & Responsibilities?

- Local ABC Administrator
- Local Ordinances
- Local Licenses & Licensing Fees
- Regulatory Fees
- Use of Restricted Funds



Senate Bill 13

Promulgation of Regulations

Emergency & Ordinary Regulations:

- What is covered under the E-Reg?
 - Licensing Types-Replacement Licenses
 - Impacts on Local Government
 - How does it help local Government?
 - Expiration/Deadline- December 11, 2013
- What has been addressed under the filing of revised ordinary regs by the Department?
 - Licensing Renewal Schedule
 - All Revised/New ABC Applications and Forms



Senate Bill 13 Changes

- Clean up of Local Option Election Statutes & Regulations
- Sales on Election Day
- Corrects Statutory Compliance Issues by Microbreweries
- Expands Scope of KRS 244.120 Disorderly Premises Statute
- Medical Amnesty



Senate Bill 13 Changes

- Licensing:
 - Names of License Types
 - Licensing Requirements & Privileges
 - 2 Year Renewal Option
 - State Licensing Renewal Schedule
 - Local Renewal Schedule
 - State Licensing Fees
 - Uniform Licensing Fees
 - Local Licensing Fees
 - Bond Requirements
 - Caterer's License and Compatibility with Special Temporary Distilled Spirits and Wine Auction License



Senate Bill 13 Changes

- Licensing continued:
 - Master File Licensing Concept
 - Elimination of the Blender's License
 - Renamed Vintner License
 - Distiller's License
 - Bundled Souvenir License
 - Storage License
 - Transporter Licenses
 - Quota Licenses
 - Special Agent's or Solicitor's License
 - Industrial and Non Industrial Alcohol License



Senate Bill 13 Changes

- Licensing Continued:
 - “Combo” Licenses
 - New Non-Quota License Types- NQ, NQ-1, NQ-2, NQ-3 and NQ-4
 - Malt Beverage Licenses
 - 2 Types
 - Still Have Malt Beverage Only Licensing Option
 - What Does “by the Drink” and “by the Package” Mean?
 - Out-of-State Distilled Spirits/Wine Producer/Supplier’s License
 - Temporary/Special Event Licenses
 - Requirements of Local Government



Senate Bill 13 Changes

- Licensing Continued:
 - Implementation & Other Licensing Changes
 - Applications & Forms;
 - State's Electronic System and Database;
 - On-Line Licensing System & Reports;
 - Website Updates;
 - Revamp Licensing Files;
 - Internal Reorganization of the Licensing Division and Its Processes;
 - Issuance of Replacement Licenses and Educational Correspondence on Senate Bill 13 Changes.



Next Steps/Action Items

What action is required by local
ABC Administrators to assure full compliance?

Recap:

- Ordinances:
 - Licensing Types & Sales On Election Day
- Licensing:
 - Licenses, Licensing Fees & Renewal Schedule
- Discontinue Use of Old Applications & Forms or Revise all
- Deadline for Compliance
- Examine Use of Restricted Funds



- Adjournment

**On Behalf of
Kentucky League of Cities,
Kentucky Association of Counties and
Kentucky Department of Alcoholic Beverage Control,
we appreciate your participation!**





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Alcohol Elections

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Types of Local Option Elections

- Regular Wet Election. (KRS 242.030-.050; KRS 242.125). Counties and 1st to 4th Class Cities.
- Limited Restaurant Elections. (KRS 242.1244). Counties and Cities.
- Golf Course Election. (KRS 242.123). Precinct.
- Small Farm Winery. (KRS 242.124). Precinct.
- Qualified Historic Site Election. (KRS 242.1242). Precinct.
- Horse Racetrack Election. (KRS 242.1238). Precinct.
- 4th Class City Liquor/Wine Drink Sales. (KRS 242.1238). 4th Class City.



Type of Local Option Election Determines Type of Licenses Available

- Regular Wet Election - All license types (with some exceptions)
- Limited Restaurant Elections - Limited Restaurants only
- Golf Course Election - Specific Golf Course only
- Small Farm Winery - Specific Small Farm Winery only
- Qualified Historic Site Election - Qualified Historic only
- Horse Racetrack Election - Horse Track Only.



Petition for Local Option Election

KRS 242.020

- The petition must be signed by a number of registered voters in the “territory” equal to twenty-five percent (25%) of the votes cast in last preceding general election. (KRS 242.020 (1)).
- Voters signing a petition must include their name, residence address, date of birth, and the date that they signed petition. (KRS 242.020(2)).
- The petition can only be circulated for six (6) months prior to its filing. (KRS 242.020(4)).
- “Petition” may consist of several different units, as long as they are all filed together at the same time. Rodgers v. Campbell, 101 S.W.2d 937 (Ky. 1937)(46 different units).



Petition for Local Option Election

- The statutes authorizing the different types of local option elections now state how the petitions should be worded for each different type of election.
- Example: KRS 242.020(4) lists petition wording for full wet election.
- KRS 242.020(6) provides that substantial compliance with the wording designated under this chapter for a particular type of petition is sufficient to validate the actual wording of the petition.



Petition for Local Option Election Filing and Calling of Election

- Petition for local option election is filed with the county clerk. (KRS 242.020(1)).
- The county clerk notifies the county judge executive if petition qualifies. (KRS 242.020(5)).
- The county judge executive makes an order on the order book of the court directing an election to be held in the territory. (KRS 242.020(5)).



Date of Local Option Election

Date of Election

- A local option election cannot be held prior to sixty (60) after filing the petition or after ninety (90) days of the filing. (KRS 242.030 (2)).
- County judge executive may order an election to be held on a date other than that named in the petition. Donohue v. Sindler, 184 S.W.2d 348 (Ky. 1944).
- Local option election cannot be held on the same day of a primary or general election or within (30) days of those elections. (KRS 242.030 (3)). Exceptions: local option elections for limited restaurants and qualified historic sites.



Frequency of Local Option Elections

- A local option election cannot be held in same territory more than once every three (3) years. (KRS 242.030(5)).
- A city and county are not the same territory. (KRS 241.010(56)); (KRS 242.125).
- If a county has an election, a qualified city within the county could have its own separate election within three (3) years.



Local Option Election Rules

- The general election laws, including penalties for violations, apply to local option elections, except where KRS Chapter 242 is inconsistent . (KRS 242.060(1)).
- Costs of elections are borne by county. (KRS 242.060(2)).
- Precinct election officers appointed for a primary and a regular election under KRS 117.045 serve as precinct election officers in local option elections.



Effective Date of Wet Election Results

- KRS 242.200 provides that the results of the election become effective 60 days after the election is certified.
- If the measure passes, the county or city becomes wet after 60 days.
- County or city needs to start the ordinance process immediately after the local option election so local licenses and fees are in place before it becomes wet.



Annexation/Merger

- If a city annexes county territory or part of one precinct into a different precinct, the annexed territory assumes the same local option status as the local option status of the annexing city precinct. (KRS 242.190(2); OAG 81-399, OAG 82-153).
- However, if part of a county precinct is merged or annexed into a different county precinct, it retains its status irrespective of the status of the annexing precinct. OAG 85-7 (citing Rich-Hills Catering Co. v. Slattery, 448 S.W.2d 379 (Ky. 1969); OAG 77-10).



Elections to Become Fully Wet

- All counties can have local option elections to become fully wet. See, KRS 242.020- .050; KRS 242.125.
- Cities of the first four (4) classes can have an election to permit the city to become fully wet separate from a dry county. (KRS 242.125).
- Prohibition against 5th and 6th class city local option elections is constitutional. May v. Drake, 219 S.W.2d 31 (1949).
- On August 8, 2013, there were thirty-five (35) wet counties.
- On August 8, 2013, there are thirty-six (36) wet cities located in dry counties.



Full Wet Petition and Ballot Questions

Petition Question

The petition should read, **“We the undersigned registered voters hereby petition for an election on the following question: 'Are you in favor of the sale of alcoholic beverages in (name of County or City)?'".?** See, KRS 242.020 and KRS 242.125 (2).

Ballot Question

The ballot should read, **“Are you in favor of the sale of alcoholic beverages in (Name of County or City)?”** See, KRS 242.050 and KRS 242.125 (2).



Precinct Elections After a City or County Election

- If a county votes to become fully wet, precincts within the county are permitted to have their own separate elections to become dry again. Campbell v. Brewer, 884 S.W.2d 638 (Ky. 1994).
- If a city votes to become fully wet, precincts within the city are permitted to have their own separate elections to become dry again. (KRS 242.125).
- Law is unclear whether a precinct must now wait three years before having a separate election to return to dry status.



Types of Alcoholic Beverage Licenses Available After a Successful Election

- Types of STATE alcoholic beverage licenses available are listed in KRS 243.030, KRS 243.040.
- Types of COUNTY alcoholic beverage licenses available are listed in KRS 243.060.
- Types of CITY alcoholic beverage licenses available are listed in KRS 243.070.



Main Retail License Types after Fully Wet Election

- Quota Retail Package license(QP/LP)
- Non-Quota Retail Malt Beverage Package license (NQ)
- Quota Retail Drink license (QD/LD)
- Non-Quota Retail Drink licenses (NQ1, NQ2, NQ3, NQ4)
- Temporary Drink licenses (T)



Licenses Subject to Quota

- KRS 241.060(2) permits the Board to limit the number (quota) of ABC licenses.
- By regulation, 804 KAR 9:010, Quota Retail Package (QP/LP) and Quota Retail Drink (QD/LD) licenses are limited by quota based on COUNTY population ratios. QP licenses are issued on a ratio of 1/2300 and QD licenses are 1/2500.
- When a city goes wet but county remains dry, Board sets the city quota by regulation: QP city quota is set in 804 KAR 9:040 and QD quota is set in 804 KAR 9:050.
- QP licenses and QD licenses are the only types of quota licenses.



Quota Retail Package (QP) License

- Quota Retail Package licenses (QP) license permits the sale of distilled spirits and wine by the package for consumption OFF the premises. (KRS 243.240).
- QP licenses are typically associated with a liquor package store.
- QP licenses are quota licenses so only a limited number are available.



Retail Liquor Package (LP) License

- QP licenses may not be issued to grocery stores, convenience stores, or other stores which have sales of staple groceries greater than 10% of its total sales. (KRS 243.230(7)).
- However, a grocery store owner may qualify for an QP license immediately adjacent to its store if the licensed premises has a separate entrance and is not accessible from within the grocery store. See, KRS 241.010(37).



Quota Retail Drink (QD) License

- Quota Retail Drink (QD/LD) licenses permit the sale of distilled spirits and wine by the drink for consumption ON the premises. (KRS 243.250)
- QD licenses are typically associated with bars and small restaurants. There is no food sales or seating requirements.
- QD licenses are quota licenses.



Counties without a 3rd Class City (and 4th Class Cities) Do Not Become Fully Wet After a Successful Election

- For county elections with, or by a 1st, 2nd, and 3rd class city, a “yes” vote on a referendum permits the issuance of ALL types of alcoholic beverage licenses. (KRS 243.230)
- All other counties, and fourth (4th) class cities get all licenses except QD and NQ2 licenses. (KRS 242.127), (KRS 242.129), (KRS 243.230(2))
- A 4th class city (but not a county) is permitted to have a second local option election to permit QD and NQ2 licenses. (KRS 242.127), (KRS 242.129). Seven (7) cities have done so.



Second Election for 4th Class Cities To Become Fully Wet

A 4th class city (but not a county) is permitted to have a second local option election to permit QD and NQ2 licenses. (KRS 242.127), (KRS 242.129)

Ballot Question

The ballot should read: **"Are you in favor of the sale of distilled spirits and wine by the drink for consumption on the premises in (name of city)?"**

Seven (7) 4th class cities have had this second election and are fully wet.



Non-Quota 2 Retail Drink (NQ2) Licenses

- NQ2 drink licenses allow for the sale of liquor, wine and beer by the drink for consumption on the premises. (KRS 241.010(37))
- NQ2 licenses are not subject to the quota limitation.
- NQ2 licenses may be issued to:
 - Hotel with 50 sleeping units; dining facilities for at least 100 persons; and its food sales are 50% of its total food and beverage sales.
 - Restaurant with a minimum seating for fifty (50) consumers at tables and its food sales are 50% of its total food and beverage sales.
 - Airport terminals
 - Riverboat



NQ2 Licenses issued to Hotels/Restaurants

- Restaurants holding an NQ2 license with seating capacity for 50 people can always sell wine and beer by the drink.
- Restaurants and hotels holding an NQ2 license with seating capacity for at least 100 people can sell liquor, wine and beer by the drink if the county and city also permit QD sales. (county with, or in, a 1st, 2nd, and 3rd class city).
- Restaurants and hotels holding an NQ2 license with seating capacity for at least 100 people can sell liquor, wine and beer by the drink if the county and city also permit QD sales. (county with, or in, a 1st, 2nd, and 3rd class city).
- In a county with, or in, a 4th class city, restaurants and hotels holding an NQ2 license with seating capacity for at least 100 people can only sell liquor, wine and beer by the drink if a local government enacts an ordinance permitting same. See, KRS 243.072.



Restaurants in Wet Counties without a 4th class city

- Counties without a 4th class city cannot enact an ordinance permitting liquor sales at restaurants/hotels holding NQ2 licenses. See, KRS 243.072.
- Moist licenses are available in wet territory.
- One moist license type available to restaurants, limited restaurant (LR) license, is available in counties without a 4th class city. This license type permits liquor, wine and beer drink sales. See, KRS 243.034.
- A LR license can be issued to a restaurant if with its food sales are 50% of its total food and beverage sales and it has seating capacity for 50 people.
- A restaurant holding a LR license in wet territory must maintain seating for least 100 people in order to have a bar and serve alcohol without a meal.



Non Quota Retail Malt Beverage Package License

- Non-Quota Retail Malt Beverage (NQ) Package license authorizes the sale of malt beverages/beer by the package for consumption OFF the licensed premises. See, KRS 243.280.
- NQ licenses are non-quota licenses.
- Since a QP license only authorizes liquor and wine package sales, a liquor store must also obtain a NQ license in order to sell beer by the package.
- Gas stations/convenience stores cannot obtain NQ licenses unless they maintain an inventory of \$5,000.00 worth of food, groceries and related products. See, KRS 243.280(2).



Non-Quota Retail Malt Beverage Drink license

- Non-Quota 4 Retail Malt Beverage (NQ4) Drink license authorizes the sale of malt beverages/beer by the drink for consumption ON the licensed premises. (KRS 243.088)
- NQ licenses are non-quota licenses.
- Since a QP license only authorizes liquor and wine package sales, a liquor store must also obtain a NQ4 license in order to sell beer by the drink.



Special Temporary Licenses

- A special temporary (T) license is available under KRS 243.260.
- Temporary licenses are permitted for civic or charitable temporary events such as fairs, festivals or carnivals. The licenses are usually only for a few days and require defined areas for consumption.
- Since licenses are “special”, applicants must meet certain strict requirements in order to obtain. (804 KAR 4:250)
- A temporary license authorizes wine and beer drink sales at the event in all wet counties or cities.
- If QD license is available in the county or city, a temporary license also authorizes liquor sales at the event . (KRS 243.260(3))
- These licenses are not subject to quota limitations.



“Moist” Elections

“Moist” means a territory in which a majority of the electorate voted to permit limited alcohol sales by any one (1) or a combination of special limited local option elections. (KRS 241.010(36))

Limited Restaurant Elections. (KRS 242.1244).

Golf Course Election. (KRS 242.123). Precinct.

Small Farm Winery. (KRS 242.124). Precinct.

Qualified Historic Site Election. (KRS 242.1242). Precinct.

Horse Racetrack Election. (KRS 242.1238). Precinct.

A moist county or moist qualified city, can have a later local option election to become fully wet. (KRS 242.125).



Moist Elections- Limited Restaurants (LR)

- All counties and cities can have a Limited Restaurant (LR) local option election.
- Courts made clear that ANY class city (even 5th and 6th class cities) can have a Limited Restaurant local option election separate from a county. Dalton v. Fortner, 125 S.W.3d 316 (Ky. App. 2003).
- There are two (2) different types of (LR) local option elections:
 - LR (100) Election. (KRS 242.1244(2))
 - LR (50) Election. (KRS 242.1244(1))



Moist Elections- Limited Restaurant (LR)

Differences between LR 100 and LR 50 elections:

- 100 versus 50 seating requirement for restaurant.
- LR 50 only permits alcohol to be served with meal (no meal, no alcohol).
- LR 50 does not permit restaurant to have a bar area.

As of August 1, 2012, there were:

- LR-100: twenty-six (26) cities and three (3) counties
- LR-50: six (6) cities and one (1) county.



Petition and Ballot Questions for LR 50 Elections

Petition Question

The petition should read: **"We the undersigned registered voters hereby petition for an election on the following question: 'Are you in favor of the sale of alcoholic beverages by the drink in (name of city or county) at restaurants and dining facilities with a seating capacity of at least fifty (50) persons and which derive at least seventy percent (70%) of their gross receipts from the sale of food if the alcoholic beverage is purchased in conjunction with a meal?'"**

Ballot Question

The ballot should read: **"Are you in favor of the sale of alcoholic beverages by the drink in (name of city or county) at restaurants and dining facilities with a seating capacity of at least fifty (50) persons and which derive at least seventy percent (70%) of their gross receipts from the sale of food if the alcoholic beverage is purchased in conjunction with a meal?"**



Petition and Ballot Questions for LR 100 Elections

Petition Question

The petition should read: **"We the undersigned registered voters hereby petition for an election on the following question: 'Are you in favor of the sale of alcoholic beverages by the drink in (name of city or county) at restaurants and dining facilities with a seating capacity of at least one hundred (100) persons and which derive at least seventy percent (70%) of their gross receipts from the sale of food?'"**.

Ballot Question

The ballot should read: **"Are you in favor of the sale of alcoholic beverages by the drink in (name of city or county) at restaurants and dining facilities with a seating capacity of at least one hundred (100) persons and which derive at least seventy percent (70%) of their gross receipts from the sale of food?"**



Limited Restaurant (LR) License

- A limited restaurant (LR) can be issued to a qualifying restaurant in an LR territory.
- A LR license permits distilled spirits, wine, and beer sales by the drink for consumption ON the premises of a qualifying restaurant.
- LR license does not permit package alcohol sales for consumption off the premises.
- A catering license is only other type of license permitted in a LR county or city. See, KRS 243.033.



Limited Restaurant (LR) License

- A restaurant holding a LR license must maintain seventy percent (70%) food sales of its total sales in order to remain licensed.
- A restaurant holding a LR license must maintain minimum seating (100 or 50) for consumers in order to remain licensed.
- A restaurant holding a LR license in LR 50 territory cannot have a bar or sell alcoholic beverages without a meal. (KRS 243.034(4)).



Moist Precinct Elections

- Generally, a county or city precinct cannot have its own election to become wet.
- KRS 242.1292 provides for special precinct elections in second class cities to permit limited alcohol sales.
- KRS 242.1242 provides for precinct elections to permit alcohol sales at Qualified Historic Sites in the precinct.
- KRS 242.124 provides for precinct elections to permit alcohol sales at a specific Small Farm Winery in the precinct.
- KRS 242.123 provides for precinct elections to permit alcohol sales at a specific Golf Course in the precinct.



Moist Elections- Qualified Historic Sites

“Qualified Historic Site” means:

A contributing property with dining facilities for at least fifty (50) persons at tables, booths, or bars where food may be served within a commercial district listed in the National Register of Historic Places.

Site that is listed as a National Historic Landmark or in the National Register of Historic Places with dining facilities for at least fifty (50) persons at tables, booths, or bars where food may be served.

A not-for-profit or nonprofit facility listed on the National Register of Historic Places.



Petition and Ballot Questions for Qualified Historic Site Election

Petition Question

The petition should read: “We the undersigned registered voters hereby petition for an election under this section on the following question: 'Are you in favor of the sale of alcoholic beverages by the drink at qualified historic sites in (name of precinct)?'”. (KRS 242.1242).

Ballot Question

The ballot should read: “Are you in favor of the sale of alcoholic beverages by the drink at qualified historic sites in the (name of precinct)? “

Election Result:

If election passes, only qualified historic site license may be issued in precinct.



Moist Elections- Small Farm Winery

“Small farm winery” means a winery producing wines, in an amount not to exceed fifty thousand (50,000) gallons in a year. See, KRS 241.010(52) .

Petition Question

The petition should read: **“We the undersigned registered voters hereby petition for an election on the following question: 'Are you in favor of the sale of wine at (name of the licensed or proposed small farm winery or wineries)?’”** (KRS 242.124).

Ballot Question

The ballot should read: **“Are you in favor of the sale of wine at (name of the licensed or proposed small farm winery or wineries)?’”** (KRS 242.124).



Result of Moist Small Farm Winery Election

If election passes, a Small Farm Winery license may be issued in precinct. (KRS 243.155).

Small Farm Winery license authorizes the winery to sell by the drink or by the package, wine produced by the winery or produced by another small farm winery.

The Small Farm Winery license holder may also hold an NQ2 Retail Drink license and an NQ4 Retail Malt Beverage Drink license if the issuance of these licenses is in connection with the establishment and operation of a restaurant, hotel, inn, bed and breakfast, conference center, or any similar business enterprise designed to promote viticulture, enology, and tourism.



Moist Elections- Golf Course

“Golf Course” must be a nine (9) or an eighteen (18) hole golf course that meets United States Golf Association criteria as a regulation golf course. KRS 242.123(1).

In order to have this moist election, the county must contain a wet city. (wet city required).

If election passes, only a Limited Golf Course license may be issued in precinct.

A Limited Golf Course license authorizes the sale of liquor, wine, and beer by the drink for consumption ON the golf course.



Petition and Ballot Question for Golf Course Elections

Petition Question

The petition should read: **“We the undersigned registered voters hereby petition for an election under this section on the following question: 'Are you in favor of the sale of alcoholic beverages by the drink at (name of golf course) in the (name of precinct)?’”**. (KRS 242.123).

Ballot Question

The ballot should read: **“Are you in favor of the sale of alcoholic beverages by the drink at (name of golf course) in the (name of precinct)?”**.



Moist Elections- Horse Racetrack

A precinct election may be held in any precinct containing a horse racetrack licensed under KRS 230.300. County must contain a third or fourth class city.

If election passes, an NQ1 license may be issued to the horse racetrack.

An NQ1 license authorizes the sale of liquor, wine, and beer by the drink for consumption ON the horse track premises.



Petition and Ballot Question for Horse Racetrack Elections

Petition Question

The petition should read: “We the undersigned registered voters hereby petition for an election on the following question: 'Are you in favor of the sale of alcoholic beverages in (official name of the horse racetrack located in the designated precinct)?’” (KRS 242.1238).

Ballot Question

The ballot should read: “Are you in favor of the sale of alcoholic beverages in (official name of the horse racetrack located in the designated precinct)”.



ELECTION CONSIDERATION ISSUES

Regulatory License Fees

Local licensing fees and renewal fees are general fund sources. (KRS 242.060 and KRS 243.070).

There is no local “alcohol tax” available. KRS 243.075 permits an additional regulatory license FEE based on percentage of sales.

This fee is only available in counties with, or in, a 3rd and 4th wet class city or in LR counties and cities.

Fees must be reasonably estimated to fully reimburse the local government for the estimated costs of any additional policing, regulatory, or administrative expenses related to the sale of alcoholic beverages .

“You abuse it, you lose it.”



ELECTION CONSIDERATION ISSUES

Local Ordinances (permissible and questionable)

- Hours of sale
- Sunday sales
- Adult Entertainment
- Distance Requirements from school, church (questionable)
- Different kinds of licenses not listed in KRS 243.060 and KRS 243.070. (questionable)
- Different license requirements from state requirements for same kind of license. (questionable).



END

Questions





